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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,507

01/26/2004

Peter A. Altman

212/490

2558

23371 7590 02/02/2007

CROCKETT & CROCKETT  
24012 CALLE DE LA PLATA  
SUITE 400  
LAGUNA HILLS, CA 92653

EXAMINER

ISABELLA, DAVID J

ART UNIT

PAPER NUMBER

3738

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/02/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/765,507

**Applicant(s)**

ALTMAN, PETER A.

**Examiner**

DAVID J. ISABELLA

**Art Unit**

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 8, 21, 38 and 39 is/are withdrawn from consideration.
- 5) ☒ Claim(s) See Continuation Sheet is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6, 7/1, 7/3, 7/4, 7/6, 9/1, 9/3, 9/4, 9/6, 10/1, 10/3, 10/4, 10/6, 11/1, 11/3, 11/4, 11/6, 12/1, 12/3, 12/4, 12/6, 13/1, 13/3, 13/4, 13/6, 14, 16, 17, 19, 20/14, 20/16, 20/17, 20/19, 22/14, 22/16, 22/17, 22/19, 23/14, 23/16, 23/17, 23/19, 24/14, 24/16, 24/17, 24/19, 25/14, 25/16, 25/17, 25/19, 26/14, 26/16, 26/17, 26/19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims allowed are

2,5,7/5,9/5,10/5,11/5,12/5,13/5,15,18,20/15,20/18,22/15,22/18,23/15, 23/18,24/15, 24/18,25/15,25/18,26/15,26/18 and 27-37

Art Unit: 3738

***Election/Restrictions***

Applicant's election without traverse of species (a) in the reply filed on 5/25/2006 is acknowledged.

Claims 8,21,38,39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5/25/2006.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,3,4,6,7/1,7/3,7/4,7/6,9/1,9/3,9/4,9/6,10/1,10/3,10/4,10/6,11/1,11/3, 11/4,11/6,12/1,12/3,12/4,12/6,13/1,13/3,13/4,13/6,14,16,17,19,20/14,20/16,20/17,20/19, 22/14,22/16,22/17,22/19,23/14,23/16,23/17,23/19,24/14,24/16,24/17,24/19, 25/14,25/16, 25/17,25/19,26/14,26/16,26/17,26/19 are rejected under 35 U.S.C. 102(e) as being anticipated by Lesh (6012457).

With respect to claim 1, Lesh discloses a method for treating unoccluded pulmonary vein comprising the steps of assessing the nature of the pulmonary tissue, deploying a device comprising an expandable cage (i.e. stent) into the ostium of the

Art Unit: 3738

vein and while the device is placed in the ostium forming a lesion in the tissue to provide a circumferential conduction block. Note the language of claim 1 does not preclude the steps of leaving the cage attached to the insertion device while the lesion is performed.

With respect to claim 3, method of Lesh assesses the electrical activity of the patient's vasculature and provides the steps for forming a lesion at the ostium, which modifies the conduction activity (i.e. to effect a circumferential conduction block). Again the language of claim 3 does not preclude the steps of leaving the cage attached to the insertion device while the lesion is performed.

Claims 4,5-7,13, see columns 23 and 24.

Claims 9-12, see columns 10 and 11.

With respect to claims 14 and 16, see column 1, lines 5+ and columns 10,11,23 and 24.

Claims 17,19,20,22-26 see columns 10,11,23 and 24.

### ***Allowable Subject Matter***

Claims 2,5,7/5,9/5,10/5,11/5,12/5,13/5,15,18,20/15,20/18,22/15,22/18,23/15, 23/18,24/15, 24/18,25/15,25/18,26/15,26/18 and 27-37 are allowed.

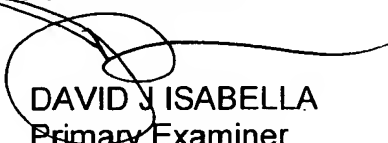
With respect to independent claims 2,15 and 27, the allowable subject matter is directed to an endoprosthesis that entails the steps of leaving the device implanted within the tissue.

Art Unit: 3738

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. ISABELLA whose telephone number is 571-272-4749. The examiner can normally be reached on MONDAY-FRIDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CORRINE MCDERMOTT can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DAVID J. ISABELLA  
Primary Examiner  
Art Unit 3738

DJI  
8/3/2006